

1 CHARLES B. WALKER  
Executive Director  
2 City of San Diego Ethics Commission  
1010 Second Avenue, Suite 1530, San Diego, CA 92101  
3 (619) 533-3476

4 Complainant  
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8 **BEFORE THE CITY OF SAN DIEGO**  
9 **ETHICS COMMISSION**

10 In the Matter of ) Case No. C2002-43  
11 Ron Roberts, ) **STIPULATION, DECISION**  
12 ) **AND ORDER**  
13 Respondent. )  
\_\_\_\_\_ )

14 **THE PARTIES STIPULATE AS FOLLOWS:**

15 1. Complainant Charles B. Walker is the Executive Director of the City of San  
16 Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with a duty to  
17 administer, implement, and enforce local governmental ethics laws contained in the San Diego  
18 Municipal Code [SDMC] relating to, among other things, campaign finance as set forth in the  
19 City's Campaign Control Ordinance [ECCO].

20 2. Ron Roberts was a mayoral candidate for the City of San Diego in the year 2000.

21 3. The "Ron Roberts for Mayor" committee [Committee] is a campaign committee  
22 (Committee Identification No. 983539) established to support Ron Roberts's candidacy for mayor  
23 in the year 2000. The Committee has not yet been terminated. At all relevant times herein, the  
24 Committee was controlled by Ron Roberts within the meaning of the California Political Reform  
25 Act, California Government Code section 82016.

26 4. Ron Roberts is referred to herein as "Respondent."

27 5. This Stipulation, Decision and Order [Stipulation] will be submitted for consideration by  
28 the Ethics Commission at its next scheduled meeting, and the agreements contained herein are

1 contingent upon the approval of the Stipulation and the accompanying Decision and Order by the  
2 Ethics Commission.

3 6. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics  
4 Commission without the necessity of holding an administrative hearing at this time. However, it  
5 is understood and agreed upon by the parties that if the terms of this stipulation are not satisfied in  
6 a timely manner as described in the "Conclusions and Order" section below, an administrative  
7 hearing shall be scheduled and conducted in accordance with SDMC Sections 26.0435 and  
8 26.0436 for the limited purpose of determining whether the presiding authority should impose any  
9 additional order for compliance and/or impose a penalty.

10 7. Except for those issues reserved for future adjudication, as described above in paragraph  
11 6, the Respondent understands and knowingly and voluntarily waives any and all procedural rights  
12 under the SDMC, including, but not limited to, a determination of probable cause, the issuance  
13 and receipt of an administrative complaint, the right to appear personally in any administrative  
14 hearing held in this matter, the right to confront and cross-examine witnesses testifying at the  
15 hearing, to subpoena witnesses to testify at the hearing, and to have the Ethics Commission or an  
16 impartial hearing officer hear this matter.

17 8. The Respondent acknowledges that this Stipulation is not binding upon any other law  
18 enforcement or government agency and does not preclude the Ethics Commission from referring  
19 this matter to, cooperating with, or assisting any other law enforcement or government agency  
20 with regard to this or any other related matter.

21 9. The parties agree that it is their intent in entering into this stipulation to comply with the  
22 law currently contained in ECCO in a manner that meets the respective goals and objectives of the  
23 parties. If there are any changes in these laws that have a material impact upon the  
24 implementation of this Stipulation, each party shall participate in a good faith renegotiation of this  
25 Stipulation and shall not unreasonably withhold approval of any requested modifications to this  
26 Stipulation made by either party when it can be demonstrated that the requested modification is  
27 necessitated or warranted by changes in the law.

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10. The parties agree that, in the event the Ethics Commission refuses to accept this Stipulation, it shall become null and void. The Respondent further agrees that, in the event the Ethics Commission rejects the Stipulation and a full evidentiary hearing before the City Ethics Commission becomes necessary, no member of the Ethics Commission or its staff shall be disqualified because of prior consideration of this Stipulation.

## SUMMARY OF LAW AND FACTS

11. SDMC section 27.2945(d) requires that candidates pay vendors for goods and services in full no later than ninety calendar days after receipt of an invoice, or after the last calendar day of the month in which the goods were delivered or the services were rendered.

12. In accordance with the Ethics Commission's investigative and enforcement procedures as set forth at SDMC sections 26.0420 et seq., the Complainant conducted a preliminary review following the receipt of a complaint alleging violations of ECCO by the Respondent. The Complainant concluded that a formal investigation was warranted and, following approval by the Ethics Commission, proceeded to conduct a formal investigation. As a result of the investigation, the Complainant concluded that (a) the Committee reported unpaid vendor debt during the period from February 17 through June 30, 2002; (b) the Committee owed seventeen vendors a total of \$58,637.44 at the beginning of the reporting period; (c) no payments were made during the reporting period; and (d) the vendors were owed the same amounts at the close of the reporting period.

13. The Committee has provided the most recent Campaign Disclosure Form, commonly known as a Form 460 Semi-Annual Statement, to be filed by January 31, 2003, reflecting changes in vendor debt. Since the last semi-annual report, the Committee paid twelve of the seventeen vendors in full. The Committee currently owes five vendors a total of \$35,574.72.

## STIPULATIONS

14. During and after the Respondent's campaign for mayor in the year 2000, he received goods and/or services in furtherance of his political campaign from multiple vendors. The Respondent did not pay for the goods/services provided by seventeen of these vendors within ninety days of receiving invoices from them, or within ninety days after the last calendar day of

1 the month in which the goods/services were provided. The Respondent carried vendor debt in  
2 excess of ninety (90) days in violation of San Diego Municipal Code section 27.2945(d).

### 3 **Agreement to Pay Remaining Debt**

4 15. The Respondent agrees to pay in full all outstanding vendor debt no later than June 30,  
5 2003.

### 6 **Factors in Mitigation**

7 16. The Respondent has cooperated fully with Ethics Commission staff in assisting with the  
8 investigation.

9 17. Respondent has been making considerable good faith efforts to raise campaign  
10 contributions to retire the outstanding vendor debt remaining from his mayoral campaign.  
11 Respondent has represented that the Committee has paid in full twelve of the seventeen vendors,  
12 such that only five vendors remain unpaid. A campaign statement for the period from July 1, 2002,  
13 through December 31, 2002, is due on January 31, 2003, and Respondent has indicated that the  
14 statement will report outstanding balances totaling no more than \$35,574.72.

15 18. There is no evidence that Respondent ever attempted to demand reductions, negotiate  
16 reductions, or seek forgiveness of the debts.

17 19. The exact meaning of the provision of ECCO at issue has never been interpreted by any  
18 formal opinion of the City Clerk, the City Attorney, or the Ethics Commission. The Respondent  
19 has indicated that it was his understanding that this provision of ECCO was not enforceable.

20 20. The Committee's vendor debt was first incurred prior to the establishment of the Ethics  
21 Commission, although the extension of debt at issue occurred after the Ethics Commission  
22 established jurisdiction to enforce ECCO in July 2001.

### 23 **CONCLUSION AND ORDER**

24 21. Although the ninety day vendor debt rule had not been historically enforced prior to the  
25 creation of the Ethics Commission, it is clearly and unambiguously codified in ECCO as a  
26 requirement and therefore cannot be ignored by the Respondent or any other candidate. The  
27 Respondent and all other candidates running in a City of San Diego election must act prudently  
28 and responsibly by not incurring debt unless sufficient contributions have been collected, or there

1 is a reasonable certainty that sufficient contributions will be collected, to pay the debt off within  
2 ninety days.

3 22. In recognition of the Respondent's cooperation with the Ethics Commission's  
4 investigation, the Respondent's acknowledgment of carrying vendor debt beyond ninety days, and  
5 the Respondent's agreement to pay all outstanding debt no later than June 30, 2003, the Ethics  
6 Commission agrees that a penalty is not warranted.

7 23. On or before July 31, 2003, Respondent shall file a campaign report and/or schedule a  
8 meeting with Ethics Commission staff and demonstrate that all outstanding vendor debt for the  
9 Committee has been paid. If Respondent does not meet this obligation, this matter shall be  
10 scheduled for an administrative hearing to be conducted in accordance with SDMC sections  
11 26.0435 and 26.0436 for the limited purpose of determining whether the Commission should  
12 impose any additional order for compliance and/or to impose a penalty.

13  
14 DATED: \_\_\_\_\_ CITY OF SAN DIEGO ETHICS COMMISSION

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16 \_\_\_\_\_  
17 CHARLES B. WALKER, Executive Director  
18 Complainant

19 DATED: \_\_\_\_\_  
20 \_\_\_\_\_  
21 RICK DUVERNAY, Attorney for Complainant

22 DATED: \_\_\_\_\_  
23 \_\_\_\_\_  
24 RON ROBERTS, Respondent

25 DATED: \_\_\_\_\_  
26 \_\_\_\_\_  
27 JAMES SUTTON, Attorney for Respondent

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**DECISION AND ORDER**

The Ethics Commission has considered the above Stipulation at its meeting on \_\_\_\_\_.

The Ethics Commission hereby approves the Stipulation.

DATED: \_\_\_\_\_  
DOROTHY LEONARD, Chair  
SAN DIEGO ETHICS COMMISSION